

be referred for employment by the state employment agency.

(3) For the purposes of retention of the Form I-9 by a state employment agency pursuant to paragraph (e) of this section, for an individual previously referred and certified, the state employment agency shall retain the Form for a period of 3 years from the date that the individual is last referred and hired.

(h) *Employer verification requirements in the case of an individual who was previously referred and certified.* When an employer rehires an individual for whom the verification and certification requirements have been previously complied with by a state employment agency, the employer shall inspect the previously issued certification.

(1) If, upon inspection of the certification, the employer determines that the certification pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I-9 or certification need be completed *provided* that the individual is rehired by the employer within 3 years of the issuance of the initial certification, and that the employer follows the same procedures for the certification which pertain to Form I-9, as specified in §274a.2(c)(1)(i) of this part.

(2) If, upon inspection of the certification, the employer determines that the certification pertains to the individual but that the certification reflects restrictions, expiration dates or other conditions which indicate that the individual no longer appears authorized to be employed in the United States, the employer shall verify that the individual remains authorized to be employed and shall follow the updating procedures for the certification which pertain to Form I-9, as specified in §274a.2(c)(1)(ii) of this part; otherwise the individual may no longer be employed.

(3) For the purposes of retention of the certification by an employer pursuant to this paragraph for an individual previously referred and certified by a state employment agency and rehired by the employer, the employer shall retain the certification for a period of 3 years after the date that the individual

is last hired, or one year after the date the individual's employment is terminated, whichever is later.

[52 FR 43053, Nov. 9, 1987]

§ 274a.7 Pre-enactment provisions for employees hired prior to November 7, 1986.

(a) The penalty provisions set forth in section 274A (e) and (f) of the Act for violations of sections 274A(a)(1)(B) and 274A(a)(2) of the Act shall not apply to employees who were hired prior to November 7, 1986, and who are continuing in their employment and have a reasonable expectation of employment at all times (as set forth in §274a.2(b)(1)(viii)), except those individuals described in section 274a.2(b)(1)(viii)(A)(7)(iii) and (b)(1)(viii)(A)(8).

(b) For purposes of this section, an employee who was hired prior to November 7, 1986 shall lose his or her pre-enactment status if the employee:

- (1) Quits; or
- (2) Is terminated by the employer; the term termination shall include, but is not limited to, situations in which an employee is subject to seasonal employment; or
- (3) Is excluded or deported from the United States or departs the United States under a grant of voluntary departure; or
- (4) Is no longer continuing his or her employment (or does not have a reasonable expectation of employment at all times) as set forth in §274a.2(b)(1)(viii).

[52 FR 16221, May 1, 1987, as amended at 53 FR 8613, Mar. 16, 1988; 55 FR 25935, June 25, 1990; 56 FR 41786, Aug. 23, 1991]

§ 274a.8 Prohibition of indemnity bonds.

(a) *General.* It is unlawful for a person or other entity, in hiring or recruiting or referring for a fee for employment of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this part relating to such hiring, recruiting, or referring of the individual. However, this prohibition does not apply to performance